

COMMERCE AND NAVIGATION

Treaty signed at Constantinople February 25, 1862,¹ modifying treaty of May 7, 1830²

Senate advice and consent to ratification April 9, 1862

Ratified by the President of the United States April 18, 1862

Ratified by the Ottoman Government May 14, 1862

Ratifications exchanged at Constantinople June 5, 1862

Entered into force June 5, 1862

Proclaimed by the President of the United States July 2, 1862

Privileges and immunities enjoyed by United States citizens in Serbia surrendered by convention signed at Belgrade October 14, 1881³

Terminated June 5, 1884⁴

18 Stat. 585; Treaty Series 268⁵

The United States of America, on the one part, and His Imperial Majesty the Sultan of the Ottoman Empire, on the other part, being equally animated by the desire of extending the commercial relations between their respective countries, have agreed, for this purpose, to conclude a treaty of commerce and navigation, and have named as their respective Plenipotentiaries, that is to say:

The President of the United States of America, Edward Joy Morris, Minister Resident of the Sublime Porte; and His Imperial Majesty the Sultan of the Ottoman Empire, His Highness Mehemed Emin Aali Pacha, Minister of Foreign Affairs, decorated with the Imperial Orders of the Othmanieh in Brilliants, the Majidieh, and Order of Merit of the first class, and the Grand Crosses of several foreign orders;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

All rights, privileges, and immunities, which have been conferred on the citizens, or vessels of the United States of America by the treaty already existing between the United States of America and the Ottoman Empire, are confirmed, now and forever, with the exception of those clauses of the said treaty

¹ For text of a separate signed agreement composed of an import tariff, an export tariff, and explanatory clauses, effective Mar. 13, 1862, see p. 10 of TS 268.

² TS 267, *ante*, p. 619.

³ TS 320, *post*, vol. 12, YUGOSLAVIA.

⁴ Pursuant to notice of termination given by the Ottoman Government.

⁵ For a detailed study of this treaty, see 8 Miller 717.

which it is the object of the present treaty to modify; and it is moreover expressly stipulated that all rights, privileges, or immunities, which the Sublime Porte now grants, or may hereafter grant to, or suffer to be enjoyed by the subjects, ships, commerce, or navigation of any other foreign Power, shall be equally granted to and exercised and enjoyed by the citizens, vessels, commerce, and navigation of the United States of America.

ARTICLE II

The citizens of the United States of America, or their agents, shall be permitted to purchase, at all places in the Ottoman Empire and its possessions, (whether for the purposes of internal trade or exportation,) all articles, without any exception whatsoever, the produce or manufacture of the said Empire and possessions; and the Sublime Porte having, in virtue of the second article of the convention of commerce of the 16th of August, 1838, with Great Britain, formally engaged to abolish all monopolies of agricultural produce, or of every other article whatsoever, as well as all "permits" (*tezkeres*) from the local Governors, either for the purchase of any article or for its removal from one place to another when purchased, any attempt to compel the citizens of the United States of America to receive such "permits" from the local Governors shall be considered as an infraction of this treaty, and the Sublime Porte shall immediately punish with severity any Viziers or other officers who shall have been guilty of such misconduct, and shall render full justice to citizens of the United States of America for all losses or injuries which they may duly prove themselves to have suffered thereby.

ARTICLE III

If any articles of Ottoman produce or manufacture be purchased by citizens of the United States of America, or their agents, for the purpose of selling the same for internal consumption in Turkey, the said citizens, or their agents, shall pay at the purchase and sale of such articles, and in any manner of trade therein, the same duties that are paid in similar circumstances by the most favored class of Ottoman subjects, or of foreigners in the internal trade of the Ottoman Empire.

ARTICLE IV

No other or higher duties or charges shall be imposed in the dominions and possessions of either of the contracting parties, on the exportation of any article to the dominions and possessions of the other, than such as are or may be payable on the exportation of the like article to any other foreign country; nor shall any prohibition be imposed on the exportation of any article from the dominions and possessions of either of the two contracting Powers to the dominions and possessions of the other, which shall not equally extend to the exportation of the like article to any other country.

No charge or duty whatsoever will be demanded on any article of Ottoman produce or manufacture purchased by citizens of the United States of America, or their agents, either at the place where such article is purchased, or in its transit from that place to the place whence it is exported, at which it will be subject to an export duty not exceeding eight per cent., calculated on the value at the place of shipment, and payable on exportation; and all articles which shall once have paid this duty shall not again be liable to the same duty, however they may have changed hands within any part of the Ottoman Empire.

It is furthermore agreed that the duty of eight per cent. above mentioned will be annually reduced by one per cent., until it shall be in this manner finally reduced to a fixed duty of one per cent. *ad valorem*, destined to cover the general expenses of administration and control.

ARTICLE V⁶

No other or higher duties shall be imposed on the importation into the United States of America of any article the produce or manufacture of the dominions and possessions of His Imperial Majesty the Sultan, from whatever place arriving, whether by sea or by land; and no other or higher duties shall be imposed on the importation into the dominions and possessions of his Imperial Majesty of any article the produce or manufacture of the United States of America, from whatever place arriving, than are or may be payable on the like article the produce or manufacture of any other foreign country; nor shall any prohibition be maintained or imposed on the importation of any article the produce or manufacture of the dominions and possessions of either of the contracting parties into the dominions and possessions of the other, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other country.

His Imperial Majesty further engages that, save as hereinafter excepted, he will not prohibit the importation into his dominions and possessions of any article the produce and manufacture of the United States of America, from whatever place arriving; and that the duties to be imposed on every article the produce or manufacture of the United States of America imported into the Empire and possessions of His Imperial Majesty the Sultan shall in no case exceed one fixed rate of eight per cent. *ad valorem*, or a specific duty, fixed by common consent, equivalent thereto. Such rate shall be calculated upon the value of such articles at the wharf, and shall be payable at the time of their being landed, if brought by sea, or at the first custom-house they may reach, if brought by land.

If these articles, after having paid the import duty of eight per cent., are sold, either at the place of their arrival or in the interior of the country,

⁶ For an exception to art. V, see art. XIV.

neither the buyer nor the seller shall be charged with any further duty in respect to them; and if such articles should not be sold for consumption in the Ottoman Empire, but should be re-exported within the space of six months, the same shall be considered as merchandise in transit by land, and be treated as is stated hereinafter in Article XII of this treaty; the administration of the customs being bound to restore, at the time of their re-exportation, to the merchant, who shall be required to furnish proof that the goods in question have paid the import duty of eight per cent., the difference between that duty and the duty levied on goods in transit by land, as set forth in the article above cited.

ARTICLE VI

It is understood that any article the produce or manufacture of a foreign country intended for importation into the United Principalities of Moldo-Wallachie, or into the Principality of Servia, which shall pass through any other part of the Ottoman Empire, will not be liable to the payment of customs-duty until it reaches those Principalities; and, on the other hand, that any article of foreign produce or manufacture passing through those Principalities, but destined for some other part of the Ottoman Empire, will not be liable to the payment of customs-duty until such article reaches the first custom-house under the direct administration of the Sublime Porte.

The same course shall be followed with respect to any article the produce or manufacture of those Principalities, as well as with respect to any article the produce or manufacture of any other portion of the Ottoman Empire, intended for exportation. Such articles will be liable to the payment of customs-duties, the former to the custom-house of the aforesaid Principalities, and the latter to the Ottoman custom-house; the object being that neither import nor export duties shall in any case be payable more than once.

ARTICLE VII

The subjects and citizens of the contracting parties shall enjoy, in the dominions and possessions of the other, equality of treatment with the native subjects or citizens in regard to warehousing, and also in regard to bounties, facilities, and drawbacks.

ARTICLE VIII

All articles which are or may be legally importable into the United States of America, in vessels of the United States, may likewise be imported in Ottoman vessels without being liable to any other or higher duties or charges, of whatever denomination, than if such articles were imported in vessels of the United States; and, reciprocally, all articles which are or may be legally importable into the dominions and possessions of His Imperial Majesty the Sultan in Ottoman vessels, may likewise be imported in vessels of the United States without being liable to any other or higher duties or charges, of what-

ever denomination, than if such articles were imported in Ottoman vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other country. In the same manner there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the dominions and possessions of either of the contracting parties, on the exportation of any article which is, or may be, legally exportable therefrom, whether such exportations shall take place in Ottoman vessels or in vessels of the United States, and whatever may be the place of destination, whether a port of either of the contracting parties, or of any third Power.

ARTICLE IX

No duties of tonnage, harbour, pilotage, light-house, quarantine, or other similar or corresponding duties of whatever nature, or under whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations, or establishments of any kind, shall be imposed in the ports of the dominions and possessions of either country upon the vessels of the other country, which shall not equally, and under the same conditions, be imposed, in the like cases, on national vessels in general.

Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

ARTICLE X

All vessels which, according to the laws of the United States, are to be deemed vessels of the United States, and all vessels which, according to Ottoman laws, are to be deemed Ottoman vessels, shall, for the purposes of this treaty, be deemed vessels of the United States and Ottoman vessels respectively.

ARTICLE XI

No charge whatsoever shall be made upon goods of the United States, being the produce or manufacture of the United States of America, whether in vessels of the United States or other vessels, nor upon any goods the produce or manufacture of any other foreign country carried in vessels of the United States, when the same shall pass through the Straits of the Dardanelles, or of the Bosphorus, whether such goods shall pass through those straits in the vessels that brought them, or shall have been transhipped to other vessels; or whether, after having been sold for exportation, they shall, for a certain limited time, be landed, in order to be placed in other vessels for the continuance of their voyage. In the latter case, the goods in question

shall be deposited at Constantinople, in the magazines of the custom-house, called transit magazines; and in any other places where there is no entrepot, they shall be placed under the charge of the administration of the customs.

ARTICLE XII

The Sublime Porte, desiring to grant, by means of gradual concessions, all facilities in its power to transit by land, it is stipulated and agreed that the duty of three per cent., levied up to this time on articles imported into the Ottoman Empire, in their passage through the Ottoman Empire to other countries, shall be reduced to two per cent., payable as the duty of three per cent, has been paid hitherto, on arriving in the Ottoman dominions; and at the end of eight years, to be reckoned from the day of the exchange of the ratifications of the present treaty, to a fixed and definite tax of one per cent., which shall be levied, as is to be the case with respect to Ottoman produce exported, to defray the expense of registration.

The Sublime Porte, at the same time, declares that it reserves to itself the right to establish, by a special enactment, the measures to be adopted for the prevention of fraud.

ARTICLE XIII

Citizens of the United States of America, or their agents, trading in goods the produce or manufacture of foreign countries, shall be subject to the same taxes and enjoy the same rights, privileges, and immunities, as foreign subjects dealing in goods the produce or manufacture of their own country.

ARTICLE XIV

An exception to the stipulations laid down in the fifth article shall be made in regard to tobacco in any shape whatsoever, and also in regard to salt, which two articles shall cease to be included among those which the citizens of the United States of America are permitted to import into the Ottoman dominions.

Citizens of the United States, however, or their agents, buying or selling tobacco or salt for consumption in the Ottoman Empire, shall be subject to the same regulations and shall pay the same duties as the most favored Ottoman subjects trading in the two articles aforesaid; and furthermore, as a compensation for the prohibition of the two articles above-mentioned, no duty whatsoever shall in future be levied on those articles when exported from the Ottoman Empire by citizens of the United States.

Citizens of the United States shall, nevertheless, be bound to declare the quantity of tobacco and salt thus exported to the proper custom-house authorities, who shall, as heretofore, have the right to watch over the export of these articles, without thereby being entitled to levy any tax thereon on any pretence whatsoever.

ARTICLE XV

It is understood between the two contracting parties that the Sublime Porte reserves to itself the faculty and right of issuing a general prohibition against the importation into the Ottoman Empire of gunpowder, canon, arms of war, or military stores, but such prohibition will not come into operation until it shall have been officially notified, and will apply only to the articles mentioned in the decree enacting the prohibition. Any of these articles which have not been so specifically prohibited shall, on being imported into the Ottoman Empire, be subject to the local regulations, unless the legation of the United States of America shall think fit to apply for a special license, which will in that case be granted, provided no valid objection thereto can be alleged. Gunpowder, in particular, when allowed to be imported, will be liable to the following stipulations:

1. It shall not be sold by citizens of the United States in quantities exceeding the quantities prescribed by the local regulations.

2. When a cargo or a large quantity of gunpowder arrives in an Ottoman port, on board a vessel of the United States, such vessel shall be anchored at a particular spot, to be designated by the local authorities, and the gunpowder shall thence be conveyed, under the inspection of such authorities, to depots, or fitting places designated by the Government, to which the parties interested shall have access under due regulations.

Fowling-pieces, pistols, and ornamental or fancy weapons, as also small quantities of gunpowder for sporting, reserved for private use, shall not be subject to the stipulations of the present article.

ARTICLE XVI

The firmans required for merchant-vessels of the United States of America, on passing through the Dardanelles and the Bosphorus, shall always be delivered in such manner as to occasion to such vessels the least possible delay.

ARTICLE XVII

The captains of merchant-vessels of the United States laden with goods destined for the Ottoman Empire shall be obliged, immediately on their arrival at the port of their destination, to deposit in the custom-house of said port a true copy of their manifest.

ARTICLE XVIII

Contraband goods will be liable to confiscation by the Ottoman treasury; but a report or *procès verbal* of the alleged act of contraband must, so soon as the said goods are seized by the authorities, be drawn up and communicated to the consular authority of the citizen or subject to whom the goods

said to be contraband shall belong; and no goods can be confiscated as contraband unless the fraud with regard to them shall be duly and legally proved.

ARTICLE XIX

All merchandise the produce or manufacture of the Ottoman dominions and possessions, imported into the United States of America, shall be treated in the same manner as the like merchandise the produce or manufacture of the most favored nation.

All rights, privileges, or immunities, which are now or may hereafter be granted to, or suffered to be enjoyed by, the subjects, vessels, commerce, or navigation of any foreign Power in the United States of America shall be equally granted to, and exercised and enjoyed by, the subjects, vessels, commerce, and navigation of the Sublime Porte.

ARTICLE XX

The present treaty, when ratified, shall be substituted for the commercial convention of the 16th of August, 1838, between the Sublime Porte and Great Britain, on the footing of which the commerce of the United States of America has been heretofore placed, and shall continue in force for 28 years from the day of the exchange of the ratifications; and each of the two contracting parties being, however, at liberty to give to the other, at the end of 14 years, (that time being fixed, as the provisions of this treaty will then have come into full force,) notice for its revision, or for its determination at the expiration of a year from the date of that notice, and so again at the end of 21 years.

The present treaty shall receive its execution in all and every one of the provinces of the Ottoman Empire; that is to say, in all the possessions of His Imperial Majesty the Sultan, situated in Europe or in Asia, in Egypt, and in the other parts of Africa belonging to the Sublime Porte, in Servia, and in the United Principalities of Moldavia and Wallachia.

ARTICLE XXI

It is always understood that the Government of the United States of America does not pretend, by any article in the present treaty, to stipulate for more than the plain and fair construction of the terms employed, nor to preclude in any manner the Ottoman Government from the exercise of its rights of internal administration where the exercise of these rights does not evidently infringe upon the privileges accorded by ancient treaties, or by the present treaty, to citizens of the United States or their merchandise.

ARTICLE XXII

The high contracting parties have agreed to appoint, jointly, commissioners for the settlement of a tariff of custom-house duties,⁷ to be levied in

⁷ See footnote 1, p. 628.

conformity with the stipulations of the present treaty, as well upon merchandise of every description being the produce or manufacture of the United States of America imported into the Ottoman Empire, as upon articles of every description the produce or manufacture of the Ottoman Empire and its possessions, which citizens of the United States or their agents are free to purchase in any part of the Ottoman Empire for exportation to the United States or to any other country. The new tariff, to be so concluded, shall remain in force during seven years, dating from the date of the exchange of the ratifications.

Each of the contracting parties shall have the right, a year before the expiration of that term, to demand the revision of the tariff. But if, during the seventh year, neither the one nor the other of the contracting parties shall avail itself of this right, the tariff then existing shall continue to have the force of law for seven years more, dating from the day of the expiration of the seven preceding years; and the same shall be the case with respect to every successive period of seven years.

ARTICLE XXIII

The present treaty shall be ratified and the ratifications shall be exchanged at Constantinople in three calendar months,⁸ or sooner if possible, and shall be carried into execution when ratified.

Done at Constantinople on the twenty-fifth day of February, eighteen hundred and sixty-two.

EDWARD JOY MORRIS	[SEAL]
AALI	[SEAL]

[For text of tariff schedule, see p. 10 of TS 268.]

⁸ The fact that the exchange of ratifications took place 11 days after the close of the period specified in art. XXIII was not officially noticed by either government. (8 Miller 736.)